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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,808	11/03/2003	Jamie Crawford	5434-4	4460
27799	7590	03/08/2006	EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			GILBERT, ANDREW M	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/699,808	Applicant(s) CRAWFORD ET AL.	
	Examiner Andrew M. Gilbert	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-18 and 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/29/05 6-14-04 4-26-04 4-29-05 6-17-04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the election in the reply filed on 1/25/2006 is acknowledged. The traversal is on the ground(s) that independent claims 1, 20, and 26 are generic to the species. This is found persuasive and claims 1, 20, and 26 are generic to the species. Additionally, Applicant elected Species I: Fig 1-10 of the thumb pad species; Species I: Figs 1-10 of the syringe barrel species; and Species I: Figs 1-10 of the urging member species with claims 1-11 and 13-28 readable thereon. This is not found persuasive because claim 13 depends on withdrawn claim 12 and claim 19 does not read on the elected species (see Fig 10a and paragraph 41). Therefore, claims 12, 13, and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 8/29/2005, 4/29/2005, 6/17/2004, 6/14/2004, 4/26/2004, and 11/28/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 15-18, 20-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunel (6186980). In reference to claims 1, 20, 26-27, Brunel discloses a

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medical device having a syringe assembly having a barrel (1) having a forward end and a rear end and defining a reservoir within which the medicament may be contained (Fig 1); a needle cannula (2) having a forward tip and being coupled to said forward end of said barrel and in fluid communication with said reservoir (Fig 1); a plunger (5) having a first end with a stopper positioned in said reservoir and a second end having a thumb pad (6) for receiving medicament delivery pressure for causing said plunger to move within said reservoir to cause the medicament to be expelled from said reservoir (Figs 12-14); a hollow shield body (7) receiving said syringe barrel therein, said syringe barrel being selectively movable within said shield body between a first position in which said forward tip of said needle cannula is exposed, and a second position in which said forward tip of said needle cannula is contained within said shield body (Figs 12-14); a first retainer (27) releasably securing said syringe barrel in said first position; and an urging member (42) arranged between a portion of said hollow shield body and a portion of said syringe barrel for urging said syringe barrel from said first position toward said second position (Figs 12-14), said thumb pad being configured to interact with said first retainer upon movement of said stopper to a position proximate said syringe barrel forward end to release said syringe barrel from said first retainer and enable said urging member to move said syringe barrel from said first position to said second position upon release of medicament delivery pressure from said thumb pad (Figs 12-14).

4. In reference to claims 2-7, 15-17, 21-24, Brunel additionally discloses a hollow shield body further comprises a flange clip (24) connected proximate a rear facing end of said hollow shield body, wherein said flange clip comprises said first retainer (27); the

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hollow shield body further comprises a rim (20) and said flange clip comprises a recess (30) engaging said rim for connecting said flange clip to said hollow shield body (Fig 1); the hollow shield body further comprises a step (10) having a rear facing surface for receiving an end of said urging member (Fig 1); the syringe barrel further comprises a radial flange (31) for receiving another end of said urging member (Fig 1); the step divides said hollow shield body into a first cylindrical portion having a first diameter and a second cylindrical portion having a second diameter different than said first diameter (Fig 1), said urging member being arranged in said second cylindrical portion (42; Fig 1); and the flange clip comprises a second retainer (27, Fig 7) spaced axially from said first retainer (27, Fig 7), wherein said radial flange is positioned between said first and second retainers when said syringe barrel is in said second position (Fig 14).

5. In reference to claims 8-11, 25, 28, Brunel additionally discloses the front facing surface of said second retainer and a rear facing surface of said radial flange are mutually inclined to allow said flange to pass over said second retainer when said syringe barrel is moved from said first position toward said second position (col 8, lns 26-57); Figs 12-14); the first and second retainers comprise flexible arms (Figs 7, 12-14); the urging member comprises a spring (42); and the first retainer is formed unitarily with said shield body (20; Figs 1).

6. In reference to claim 18, Brunel additionally discloses the first retainer is moved radially outward to release said syringe barrel (Figs 12-14).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunel. Brunel discloses the invention substantially as claimed except for expressly disclosing the syringe barrel being plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the syringe barrel as taught by Brunel with a plastic syringe barrel since it was well known in the art that plastic is used to provide the material for syringes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571)272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Andrew Gilbert", with a stylized flourish at the end.

Andrew Gilbert

A handwritten signature in black ink, appearing to read "Michael J. Hayes", with a stylized flourish at the end.

MICHAEL J. HAYES
PRIMARY EXAMINER